



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING  
3430 Courthouse Drive ■ Ellicott City, Maryland 21043 ■ 410-313-2350

Marsha S. McLaughlin, Director

[www.co.ho.md.us](http://www.co.ho.md.us)  
FAX 410-313-3467  
TDD 410-313-2323

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## TECHNICAL STAFF REPORT

*Petition Accepted on February 9, 2007  
Planning Board Meeting of March 29, 2007  
County Council Hearing to be scheduled*

Case No./Petitioner: ZRA-82 – Courtney Watson, Councilperson, et. al.

Request: Zoning Regulation Amendment to amend Section 109.G.17. and Section 131.N.48. of the Zoning Regulations to remove the R-12 District from being eligible for the Conditional Use category of Two-family Dwellings.

Department of Planning and Zoning Recommendation:

**APPROVAL**

### I. DESCRIPTION OF PROPOSAL

# The Petitioners propose two amendments to the Zoning Regulations. Each proposed amendment is generally described as follows:

1. The first amendment is to Section 109.G., the listing of allowable Conditional Use categories in the R-12 District. This amendment would delete the Two-family Dwelling category in Section 109.G.17.
2. The second amendment is to Section 131.N.48., the Conditional Use category which includes the criteria for Two-family Dwellings, Accessory Apartments, and Age-restricted Multi-plex Dwellings. This amendment would delete the R-12 District from the list of zoning districts that are eligible for the Two-family Dwelling in Section 131.N.48.a.

# The subsections proposed to be amended and the amendment text is as follows (Text in CAPITALS indicates text to be added. Text in [[brackets]] indicates text to be deleted):

#### 1. Section 109.G.:

The following are conditional uses in the R-12 District, subject to the detailed requirements for conditional uses given in Section 131. If there is a conflict between this Section and Section 131, Section 131 shall prevail.

1. Age-restricted Adult Housing
2. Athletic Facilities, Outdoor
3. Bed and Breakfast Inns

PETITIONER: Courtney Watson, Councilperson, et. al.

**I. DESCRIPTION OF PROPOSAL (continued)**

4. Cemeteries and Mausoleums
5. Charitable and Philanthropic Institutions
6. Communication Towers or Antennas (Commercial)
7. Country Clubs and Golf Courses
8. Country Inns
9. Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities
10. Historic Building Uses: Apartments, Business and Professional Offices and Community Meeting Halls
11. Home Occupations
12. Non-Profit Clubs, Lodges, Community Halls And Camps
13. Nursing Homes and Residential Care Facilities
14. Religious Activities, Structures Used Primarily for
15. School Buses (Parking and Storage)
16. Schools, Colleges, Universities - Private (Academic)
17. [[Two-Family Dwellings,]] Accessory Apartments[[,]] and Age-Restricted Multi-Plex Dwellings
18. Utility Uses, Public

**2. Section 131.N.48.a.:**

A conditional use may be granted for two-family dwellings, accessory apartments or age restricted multi-plex dwellings in the following districts, provided that any new structures or additions will be designed to be compatible in scale and character with the surrounding residential neighborhood. Compatibility of character may be in architectural style, materials or details. Compatibility shall be demonstrated by architectural elevations or renderings submitted with the petition.

- a. Two-family dwellings: in the RC, RR, R-ED, **OR** R-20 [[or R-12]] Districts.

**II. EXISTING REGULATIONS**

- # **The R-12 District was created in 1962 with Zoning Case 323, which amended the 1961 Zoning Regulations. Both the R-12 District and a R-16 District were established in this case. The standard R-residential districts at that time permitted both one-family and two-family dwellings as a matter of right, so the new R-12 and R-16 Districts both also allowed two-family dwellings by right.**
- # **The next relevant change happened in 1971, when Zoning Case 584 amended the Zoning Regulations to specify that the R-90, R-40, R-20, and R-16 Districts would only allow one-family detached dwellings by right, but that the Board of Zoning Appeals (“BZA”) may approve as a special use the conversion of any single-family detached dwelling to a two-family dwelling in any zoning district. Although the R-12 District was not directly amended, because the permitted uses in R-12 were determined as “all uses permitted in R-16”, the amendment to R-16 also made it so two-family dwellings were no longer permitted in R-12.**

**II. EXISTING REGULATIONS (continued)**

This same zoning case also added a provision where the BZA could approve an individual site for a two-family dwelling in the R-90, R-40, and R-20 Districts only. So one could only convert an existing dwelling to a two-family dwelling in the R-12 District; one could not establish a completely new two-family dwelling.

- # **The 1977 Zoning Regulations established two-family dwellings as a Special Exception category which could be granted in the R, R-20, or R-12 Districts, either for the conversion of an existing single-family dwelling or the construction of a new two-family dwelling “...on an individual site.” The implication is that then, the two-family dwelling use category was intended to be only for one building on one lot at one time. This regulation remained unchanged in the 1985 Zoning Regulations.**
- # **The 1993 Zoning Regulations first established the two-family dwelling Special Exception category in its overall current form, where such uses are allowed in the RC, RR, R-20 or R-12 Districts, and there was no mention or any distinction between conversions or new construction or location on an individual site. This blurred the original intentions of previous versions of the Zoning Regulations.**

**III. BACKGROUND INFORMATION****A. Scope of Proposed Amendments**

- # **As proposed, the amendments would affect only the R-12 District, making R-12 properties ineligible to apply for any Conditional use for a Two-family Dwelling.**

**B. Agency Comments**

- # **There have been no comments received to date from any agencies concerning this Zoning Regulation Amendment proposal.**

**IV. EVALUATIONS AND CONCLUSIONS****A. Relation to the General Plan**

- # **The Department of Planning and Zoning concurs with the Petitioners that ZRA-82 is in harmony with the Community Conservation and Enhancement Policy No. 5.7 to “Ensure infill development will be compatible with existing neighborhoods.”**

As mentioned by the Petitioners in the stated reasons for the amendments, the current regulations do technically allow the residential density to double on a relatively small R-12 lot, and this might prove to be very incompatible with existing neighborhoods in the event multiple two-family dwellings are proposed within a single overall development.

**B. Relation to the Zoning Regulations**

- # The amendments are compatible with the Legislative Intent of the Zoning Regulations to: "... promote the most beneficial relationship between the uses of land and structures, and the road system which serves these uses, having particular regard for the potential amount and intensity of such land and structure uses in relationship to the traffic capacity of the road system, so as to avoid congestion in the streets and roadways, and to promote safe and convenient vehicular and pedestrian traffic movements appropriate to the various uses of land and structures throughout the County."

**C. Other Issues**

- # It is recommended that the R-ED District also be made ineligible for the Two-family Dwelling category, because following the same logic as this proposal, the R-ED District could potentially have much smaller lot sizes than the R-12 District.
- # Any Bill to eliminate the Two-family Dwelling category in the R-ED District should also amend the Conditional Use list at the end of the R-ED District regulations (Section 107.H.) to remove that category from the list.
- # Eliminating the Two-family Dwelling category in the R-12 and R-ED districts would not prevent any homeowner from creating an accessory apartment dwelling, as long as that accessory apartment dwelling complies with the owner occupancy and maximum size requirements in Section 128.A.13. of the Zoning Regulations.
- # A related issue with the text of the Two-family Dwelling criteria in Section 131.N.48. is that the number of two-family dwellings will still remain relatively uncontrolled in those districts that will still be eligible for the use category. The following text addition is recommended to discourage the potential for speculating and establishing multiple two-family dwellings at one time:

A conditional use may be granted for two-family dwellings, accessory apartments or age restricted multi-plex dwellings in the following districts, provided that any new structures or additions will be designed to be compatible in scale and character with the surrounding residential neighborhood. Compatibility of character may be in architectural style, materials or details. Compatibility shall be demonstrated by architectural elevations or renderings submitted with the petition.

- a. Two-family dwellings: in the RC, RR, [[R-ED]] **OR** R-20 [[or R-12]] Districts, PROVIDED THAT THE TWO-FAMILY DWELLING IS ON AN INDIVIDUAL LOT, WITH ONLY ONE TWO-FAMILY DWELLING PERMITTED ON ONE LOT, AND THAT THE LOT IS AN EXISTING RECORDED LOT AT THE TIME OF THE CONDITIONAL USE APPLICATION.

PETITIONER: Courtney Watson, Councilperson, et. al.

**C. Other Issues** (continued)

- # **Consideration should also be given to potentially eliminating the Two-family Dwelling category entirely, and only permit accessory apartment dwellings as a method of creating a second, subordinate dwelling. The requirements for owner occupancy and size limitations are effective means of protecting the neighborhood from adverse impacts.**

Moreover, with the required size limitations, the accessory apartment dwelling unit is always secondary and subordinate to the principal unit. This is critical to ensuring consistency with the intent of the residential density limitations as well as the Adequate Public Facilities Ordinance housing allocation requirements.

Without a clear limitation on the size of accessory apartment dwelling units there is a potential to blur the distinction between two-family dwellings and single-family semi-detached dwellings, more commonly referred to as duplexes, with two dwelling units of equal size.

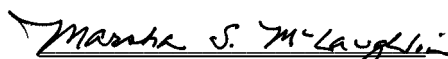
- # **The Department will propose a future regulation amendment to eliminate the Two-family Dwelling Conditional Use category if the Planning Board and County Council are amenable to the concept. If this is done, one factor needing to be addressed is the issue of making a distinction between accessory apartment dwellings that are created by conversions to existing dwellings, and accessory apartment dwellings that may be proposed as part of a newly-built dwelling.**

The current regulations do not make such a distinction, and it may be beneficial to permit accessory apartment dwellings as conversions by right, as they are now, but to make accessory apartments as part of a newly-built dwelling subject to the Conditional Use process, so that there could be limitations in the criteria and the public hearing process will enable an evaluation of any adverse impacts on vicinal properties.

- # **The accessory apartment dwelling provisions are an important means of providing some modest affordable housing units with appropriate controls that will better ensure compatibility and prevent potential misuse of the Two-family Dwelling category.**

**V. RECOMMENDATION****APPROVAL**

For the reasons noted above, the Department of Planning and Zoning recommends that ZRA-82 as noted above, be APPROVED.

  
Marsha S. McLaughlin, Director

03/15/07

Date

MM/JRL/jrl

**NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.**